

SUPREME COURT OF ARIZONA

In the Matter of)	Arizona Supreme Court
)	No. R-18-0044
ARIZONA RULES OF PROBATE)	
PROCEDURE)	
)	
)	
)	
)	
)	FILED 12/12/2019

ORDER

**ADOPTING RULE 45 AND AMENDING RULES 1, 15(i), 18(b)(1), 36(a)(4), AND
THE TITLE TO PART VI, ARIZONA RULES OF PROBATE PROCEDURE**

In an order filed August 29, 2019, the Court ordered that the current Arizona Rules of Probate Procedure be abrogated and replaced with the rules set forth in Attachment A to the order, except for Rule 45, which was continued to the Court's December 2019 Rules Agenda. The Court further ordered that the new and amended rules and forms will apply to all actions filed on or after January 1, 2020. The new and amended rules and forms will also apply to all actions pending on that date, except to the extent that the court in an affected action determines that applying the amended rule or form would be infeasible or work an injustice, in which event the former rule or form applies.

A supplemental petition and reply having been filed proposing to adopt Rule 45 and amend Rules 1, 15(i), 18(b)(1), 36(a)(4), and the title to Part VI, and no comments having been received, upon consideration,

IT IS ORDERED that Rule 45, Arizona Rules of Probate Procedure, be adopted in accordance with the attachment hereto, effective January 1, 2020, as set forth above.

IT IS FURTHER ORDERED that Rules 1, 15(i), 18(b)(1), 36(a)(4), and the title to Part VI, as approved in this Court's order filed August 29, 2019, be amended in accordance with the attachment hereto, effective January 1, 2020, as set forth above.

DATED this 12th day of December, 2019.

/s/
Robert Brutinel
Chief Justice

TO:
Rule 28 Distribution
Hon Rebecca White Berch
Kay Radwanski
James E McDougall
Robert Beckett
Bridget O'Brien Swartz

ATTACHMENT¹

Arizona Rules of Probate Procedure

Rule 45. Conservator's Inventory, Budget, and Account

- (a) **Court Authority.** The court may order a variation of this rule's requirements for an inventory, budget, or account, or the form thereof, if the court finds the variation is consistent with prudent management and oversight of the case.
- (b) **Date of Conservator's Appointment.** For purposes of this rule, the conservator's appointment is the date the court first issues letters of appointment.
- (c) **Conservator's Inventory.**
- (1) **Timing.** A conservator must file an inventory of a protected person's estate no later than 90 days after the date of the conservator's appointment.
 - (2) **Contents.** The inventory must contain the information specified in A.R.S. § 14-5418(A).
 - (3) **Consumer Credit Report.** The conservator must file the consumer credit report required by A.R.S. § 14-5418(A) with the inventory.
- (d) **Conservator's Budget.**
- (1) **Necessity and Timing.** The conservator must file an initial budget no later than the date the conservator's inventory is due. The conservator must file a subsequent budget with each account.
 - (2) **Contents and Format.** The budget must include a reasonable estimate of all anticipated income and expenditures related to the protected person's estate. The conservator must use Form 5, 6, or 7, as applicable.
 - (3) **Amendments.** The conservator must file an amended budget no later than 30 days after reasonably projecting the expenditures for any specific category will exceed the budget by a threshold stated in the instructions to Form 5.
 - (4) **Copies to Interested Persons.** The conservator must provide a copy of the budget, including any amended budget, to all persons entitled to notice of the conservator's accounts under A.R.S. § 14-5419(C).
 - (5) **Presumptions, Objections, and Court Action.**
 - (A) **Presumption; Objection.** A timely filed budget is presumed reasonable unless there is an objection. An interested person may file an objection no later than 14 calendar days after the budget or amendment was filed.

¹ Because Rule 45 is being adopted for the first time, a clean version only is provided. The other rules in this attachment reflect amendments to the rules approved by the Court in its order filed August 29, 2019. Therefore, strikeout versions of those rules are provided.

- (B) *Hearings and Resolving Objections.* The court may summarily overrule the objection, order the conservator to file a response, or set a hearing on the objection. The court may set a hearing even in the absence of an objection. The conservator has the burden of proving that a contested budget item is reasonable, necessary, and in the best interests of the protected person.
- (C) *Court Action.* If the court reviews the budget, it may approve, disapprove, or modify the budget to further the protected person's best interests.

(e) **Conservator's Account.**

- (1) **Timing.** The conservator must file an annual account on or before the anniversary date of the issuance of the conservator's permanent letters of appointment.
- (2) **Required Attachments.** For each bank or securities account listed on the ending balance schedule, the conservator must attach the statement that corresponds to the ending balance of such account.
- (3) **Sustainability.** The account must state whether the conservatorship's recurring expenses exceed its recurring income, and
 - (A) if so, whether the assets available to the conservator less the estate's liabilities are sufficient to sustain the conservatorship for the protected person's foreseeable needs; and
 - (B) if the estate is not sustainable, the conservator must include a discussion of the available options.
- (4) **First Account.** The conservator's first account must reflect all activity relating to the conservatorship estate from the date of appointment through, and including, the last day of the 9th month after the date the conservator's letters of permanent appointment were issued, or other date set by the court.
- (5) **Later Accounts.** All later accounts must reflect all activity relating to the conservatorship estate from the ending date of the most recently filed account through, and including, the last day of the 12th month thereafter, or other date set by the court.
- (6) **Final Account.** Except as provided in A.R.S. § 14-5419(F) or as ordered by the court, the conservator must file a final account of the protected person's estate no later than 90 days after protected person's death or court order terminating the conservatorship. The final account must reflect all activity between the ending date of the most recently approved account and the date of termination of the conservatorship. The court may extend the date for filing the account or relieve the conservator from filing a final account.
- (7) **Format of Account.** The conservator must use Form 6, 7, or 8, as applicable, unless the court allows the conservator to use Form 9. Nothing in this rule precludes the court from requiring an alternative form of account or, in appropriate circumstances, waiving an account.

- (f) **Motion for Additional Time.** If the conservator is unable to comply with a deadline established by this rule or court order, the conservator must file a motion for additional time before the deadline. The motion must state why the conservator needs additional time and how much additional time is needed.
- (g) **Confidentiality.** The court must maintain the inventory, the consumer credit report, the budget, and the account as confidential documents under Rule 8.

Rule 1. Scope, Applicability, and Construction

(a) Scope. These rules govern procedures in all probate proceedings in the superior court.

(b) Applicability. These rules apply to all persons in a probate proceeding, whether self-represented or represented by an attorney.

(c) Construction. The court must enforce and construe these rules in a manner that ensures a consistent, predictable, prompt, efficient, and just resolution of probate proceedings.

Rule 15(i)

(i) Request for Accelerated Hearing. A party requesting an accelerated hearing on a petition must file a separate motion that states the legal authority and factual circumstances supporting the request. The motion may incorporate by reference relevant allegations in the petition. The petitioner must provide the assigned judicial officer a copy of the motion, a copy of the petition, and a proposed order accelerating the hearing. The court may rule on the motion requesting an accelerated hearing without awaiting a response or setting oral argument. ~~Section (h)~~ This section does not apply to a petition under Rule 44 that requests the appointment of a temporary guardian or conservator.

Rule 18(b)(1)

(b) Effect of Dismissal.

(1) Only Petition Filed in the Case. An order administratively dismissing the only petition filed in a probate case is a dismissal without prejudice of the entire case; however, the order dismisses only the petition if the probate case was initiated by filing a document other than a petition.

PART VI. RULES THAT APPLY TO GUARDIANSHIPS, CONSERVATORSHIPS, AND DECEDENT'S ESTATES [Note: This change should be made in both the table of contents and the title to Part VI that appears immediately preceding Rule 36.]

Rule 36(a)(4)

~~**(4) Conservatorship Budget.** An order appointing a conservator must specify whether the conservator is required to file an initial budget under Rule 45(d).~~